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No. 111 Original

IN THE
Supreme Court of the United States
OCTOBER TERM, 1990

STATE OF DELAWARE,
Plaintiff,

STATE OF TEXAS,
Plaintiff-Intervenor,

v.

STATE OF NEW YORK,
Defendant.

MOTION OF THE STATES OF ALASKA AND VERMONT FOR LEAVE TO FILE COMPLAINT IN INTERVENTION; COMPLAINT IN INTERVENTION; AND BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT IN INTERVENTION

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October 29, 1990

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MOTION OF THE STATES OF ALASKA AND VERMONT FOR LEAVE TO FILE COMPLAINT IN INTERVENTION

Pursuant to Rule 9 of the Rules of the Supreme Court, the States of Alaska and Vermont (hereinafter the "States"), sovereign states of the United States of America, by and through their Attorneys General and Special Counsel, move this Court for an order permitting them to intervene as Plaintiffs in the above-entitled case and permitting their proposed Complaint in Intervention, attached hereto, to be filed. In support of this motion, and as more fully set forth in the States' Brief in Support of Motion for Leave to File Complaint in Intervention, the States allege as follows:

I.

1. The States incorporate Paragraphs 1 through 9 of the Motion of the States of Arkansas, Florida, Iowa,

Mississippi, Missouri, New Hampshire and West Virginia (hereinafter "Arkansas, *et al.*") for Leave to File Complaint in Intervention.

2. In Litigation Management Order No. 1, dated as of October 18, 1989, the Special Master established a discovery schedule and a timetable for the filing of Motions for Leave to Intervene by prospective intervenors. He stated that "[p]arties not meeting this timetable will be required, absent compelling reasons, to fit in to ongoing discovery and motions without disruption of that scheduling track" (¶ 8).

3. In Litigation Management Order No. 2, dated July 16, 1990, as modified by Discovery Order No. 13, dated August 13, 1990, the Special Master established a briefing schedule pursuant to which dispositive motions are due 60 days after the close of discovery on August 31, 1990 (*i.e.*, on October 30, 1990).

4. The States' Complaint in Intervention is identical to the Complaint in Intervention filed by the States of Alabama, Hawaii, Illinois, Indiana, Kansas, Louisiana, Montana, Nevada, Oklahoma, South Dakota, Utah and Washington, and the Commonwealths of Kentucky and Pennsylvania (hereinafter "Alabama, *et al.*"), the Complaint in Intervention filed by Arkansas, *et al.* and the Complaint in Intervention filed by the States of New Jersey, North Dakota and Wyoming (hereinafter "New Jersey, *et al.*"). As referenced in the attached proposed Complaint in Intervention, the States seek a determination of their rights to certain unclaimed intangible personal property, as further described in Paragraphs 11 through 16 of the Motion of Arkansas, *et al.* for Leave to File Complaint in Intervention, which are adopted and incorporated herein.

5. The States' interests are not adequately represented by the original or intervening parties for the same reasons set forth in Paragraph 17 of the Motion of Arkansas, *et al.* for Leave to File Complaint in Intervention.

6. Intervention by the States will not delay the progress of this case, since the States are represented by the same counsel representing Alabama, *et al.*, Arkansas, *et al.* and New Jersey, *et al.*; they seek leave to file a Complaint in Intervention identical to that filed by Alabama, *et al.*, by Arkansas, *et al.* and by New Jersey, *et al.*; and they are prepared to comply with and be bound by the schedule specified in Litigation Management Order Nos. 1 and 2, as modified by Discovery Order No. 13.

7. For the foregoing reasons, the States are entitled to intervene as a matter of right pursuant to Rule 24(a)(2), Federal Rules of Civil Procedure.

II.

8. Alternatively, the States adopt and incorporate herein Paragraphs 20 through 25 of the Motion of Arkansas, *et al.* for Leave to File Complaint in Intervention.

III.

9. The States also adopt and incorporate herein Paragraphs 26 and 27 of the Motion of Arkansas, *et al.* for Leave to File Complaint in Intervention.

10. Wherefore, the States pray that their Motion for Leave to File Complaint in Intervention be granted.

Respectfully submitted,

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Plaintiff-Intervenor,

STATES OF ALASKA AND VERMONT,
Plaintiffs in Intervention,

v.

STATE OF NEW YORK,
Defendant.

COMPLAINT IN INTERVENTION OF THE STATES OF ALASKA AND VERMONT

The States of Alaska and Vermont (hereinafter the "States"), Plaintiffs in Intervention, by and through their Attorneys General and Special Counsel, file this Complaint in Intervention and allege as follows:

1. The States incorporate by reference as though fully recited herein Paragraphs 1 through 8 and the Prayer for Relief of the Complaint in Intervention of the States of Arkansas, Florida, Iowa, Mississippi, Missouri, New

Hampshire and West Virginia, save for substituting their names as Plaintiffs in Intervention in Paragraph 4.

Respectfully submitted,

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Defendant.

BRIEF OF THE STATES OF ALASKA AND VERMONT IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT IN INTERVENTION

The States of Alaska and Vermont (hereinafter the "States"), by and through their Attorneys General and Special Counsel, hereby adopt and incorporate by reference as though fully recited herein, in support of their Motion for Leave to File Complaint in Intervention, the Brief filed with this Court on November 17, 1989, by the States of Arkansas, Florida, Iowa, Mississippi, Missouri, New Hampshire and West Virginia (hereinafter "Arkansas, *et al.*") in Support of their Motion for Leave to File Complaint in Intervention.

In Litigation Management Order No. 1, dated as of October 18, 1989, the Special Master established a discovery schedule and a timetable for the filing of Motions for Leave to Intervene by prospective intervenors. He stated that "[p]arties not meeting this timetable will be required, absent compelling reasons, to fit in to ongoing discovery and motions without disruption of that scheduling track" (¶ 8). In Litigation Management Order No.

2, dated July 16, 1990, as modified by Discovery Order No. 13, dated August 13, 1990, the Special Master established a briefing schedule pursuant to which dispositive motions are due 60 days after the close of discovery on August 31, 1990 (*i.e.*, on October 30, 1990).

The States' motion should be granted for the reasons set forth in the Brief of Arkansas, *et al.* Intervention by the States will not delay the progress of this case, since the States are represented by the same counsel representing the States of Alabama, Hawaii, Illinois, Indiana, Kansas, Louisiana, Montana, Nevada, Oklahoma, South Dakota, Utah and Washington, and the Commonwealths of Kentucky and Pennsylvania (hereinafter "Alabama, *et al.*"), Arkansas, *et al.* and the States of New Jersey, North Dakota and Wyoming (hereinafter "New Jersey, *et al.*"); they seek leave to file a Complaint in Intervention identical to that filed by Alabama, *et al.*, by *Arkansas, et al.* and by New Jersey, *et al.*; and they are prepared to comply with and be bound by the schedule specified in Litigation Management Order Nos. 1 and 2, as modified by Discovery Order No. 13.

CONCLUSION

For the reasons stated, the Motion of the States of Alaska and Vermont for Leave to File Complaint in Intervention should be granted.

Respectfully submitted,

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